

FORM B

Request by a Museum or Federal Agency that the Review Committee Act on an Agreement Concerning the Disposition or Reburial of Culturally Unidentifiable Human Remains and Associated Funerary Objects for which a “Tribal Land” or “Aboriginal Land” Provenience Cannot Be Determined

If the cultural affiliation of Native American human remains cannot be established pursuant to section 5 of NAGPRA (25 U.S.C. 3003) and the procedures at 43 C.F.R. 10.9, then the remains must be considered “culturally unidentifiable.” Section 10.11 of the NAGPRA regulations sets forth the procedures for the disposition or reburial of culturally unidentifiable human remains that were removed from tribal lands (i.e., the land was the tribal land of an Indian tribe or Native Hawaiian organization at the time of removal), and from the aboriginal lands of Indian tribes.

Concerning human remains for which a “tribal land” or “aboriginal land” provenience cannot be determined, museums and Federal agencies seeking the Secretary of the Interior’s action on an agreement for the disposition or reinterment of such culturally unidentifiable human remains and (if applicable) associated funerary objects may request that the NAGPRA Review Committee make a recommendation to the Secretary regarding the specific action. By seeking the Review Committee’s recommendation, the museum or Federal agency affirms two things. First, it affirms that it lacks sufficient information in order to determine that, more likely than not, these Native American human remains and associated funerary objects are culturally affiliated with one or more federally-recognized tribes, or with one or more Native Hawaiian organizations. Second, the museum or Federal agency affirms that it also lacks sufficient information in order to determine that the human remains were removed from the tribal lands of an Indian tribe or a Native Hawaiian organization, or from the aboriginal lands of a tribe.

When contacting the Designated Federal Officer to the Review Committee and requesting that the Review Committee act on such an agreement, the museum or Federal agency completes and submits FORM B, along with the other materials requested on the form. The form and requested materials serve as an executive summary of your presentation to the Review Committee.

1. REQUIRED: Provide the draft Notice of Inventory Completion that will be published in the Federal Register if the agreement receives the recommendation of the Review Committee and the recommendation of the Secretary of the Interior. Make certain that the information in the draft notice agrees with the information provided in the inventory submitted to the National NAGPRA Program. A discrepancy between the two documents will require the submission of an amended inventory. Also, for Indian tribes, use the name of the Indian tribal entity as it appears in "Indian Entities Recognized as Eligible to Receive Services from the United States Bureau of Indian Affairs."

2. The museum or Federal agency personnel who will be presenting the request to the Review Committee are as follows (for every person, include: name; title; name of museum or Federal agency; street address; telephone number; and email address):

**UNH Archaeology Laboratory
Lisa MacFarlane, Ph.D.
Senior Vice Provost for Academic Affairs and Professor of English and American Studies
207 Thompson Hall
University of New Hampshire
Durham, New Hampshire 03824-3547
1-603-862-3290
Lisa.MacFarlane@unh.edu**

3. Other presenters in support of the agreement are as follows (for every person, include: name; title; name of Indian tribe, Native Hawaiian organization, or non-federally recognized Indian group; street address; telephone number; and email address):

n/a

4. This request concerns an agreement for the disposition (transfer of control) of Native American human remains and funerary objects to the non-federally recognized Indian groups listed in the attached draft Notice of Inventory Completion.

5. The agreement referenced in #4 and signed by all the parties listed in the draft Notice of Inventory Completion is attached.

Yes

6. Based on the information possessed by the museum or Federal agency concerning the provenance of the human remains and (if applicable) associated funerary objects in this request, the museum or Federal agency cannot determine that, more likely than not, the human remains and associated funerary objects were removed from the tribal lands of an Indian tribe or a Native Hawaiian organization, or from the aboriginal lands of an Indian tribe.

7. The following Indian tribes or Native Hawaiian organizations support this disposition

agreement, and evidence of their support is attached (for Indian tribes, use the name of the Indian tribal entity as it appears in "Indian Entities Recognized as Eligible to Receive Services from the United States Bureau of Indian Affairs"):

n/a

8. In addition to the parties listed in the draft Notice of Inventory Completion and the Indian tribes and Native Hawaiian organizations referenced in #7, the museum or Federal agency consulted on this agreement with the following Indian tribes or Native Hawaiian organizations (for Indian tribes, use the name of the Indian tribal entity as it appears in "Indian Entities Recognized as Eligible to Receive Services from the United States Bureau of Indian Affairs"):

n/a, but the UNH Archaeology Laboratory consulted with the Wampanoag Confederation (which represents the Mashpee Wampanoag Tribe, the Wampanoag Tribe of Gay Head (Aquinnah), & the Assonet Band of the Wampanoag Nation) and the Wabanaki Tribes of Maine Intertribal Repatriation Committee (which represents the Penobscot Nation, the Passamaquoddy Tribes of Pleasant Point and Indian Township, the Aroostook Band of Micmac, and the Houlton Band of Malecites in matters pertaining to the Native American Graves Protection and Repatriation Act).

9. All the human remains and associated funerary objects in this request appear in the following NAGPRA inventories (supply inventory dates and page numbers):

Please see enclosed Amended Inventory.

10. The human remains in this request were determined to be Native American on the basis of the following categories of information, and for each category, the key set of supporting documentation is attached (DO NOT include voluminous or extraneous documentation):

1. UNH Archeological Inventory 2005

"A very small amount of faunal and shell material comes from two shell middens along Stage Island Road in Newburyport, Massachusetts. Although the samples are small, Donna and John Moody point out that they may indeed contain human material and suggest pursuing the appropriate agency to begin the repatriation process." (Ellen Marlatt & Kathleen Wheeler November 6, 2006 UNH Archeology Laboratory Inventory – 2005 University of New Hampshire, Durham, NH: page 7

2. Traditional, Abenaki Nation Assessment 2005 – 2006

Cremated human remains are part of this handful of bone, shell, artifacts, and other materials from shell midden and should be repatriated to the Abenaki Nation in concert with the Wampanoag Confederacy. (Donna Roberts Moody Traditional Assessment 2005 – 2006)

3. Osteological, Archeological, and Traditional Assessment August, 2008

Burial # 5 confirmed by Olivia Hershensohn as "likely human remains" of one individual which given the context in Shell Midden(s) from Plum Island/Newbury - Ipswich, Mass area are Abenaki/Native American from pre-contact time period. Numerous other Abenaki cremations from the 1400's back at least 8,500 years have already been positively identified and repatriated from the nearby Merrimack River, Connecticut River, and Lake Champlain Watersheds in the Abenaki homeland.

(August 15th to 16th, 2008 Olivia Herschensohn, *Peabody Museum of Harvard* osteologist, Meghan Howey, UNH Archeologist, Donna Roberts Moody, Abenaki Nation Repatriation and Site Protection Coordinator, and John Moody, Ethnohistorian *Osteological and Traditional Assessment of the UNH Archeological Collection*)

4. In 2001, the Abenaki Nation received remains which were from the lower Merrimack River watershed in Brookline, New Hampshire from *Harvard Peabody Museum* in a NAPGRA repatriation, in cooperation with the *Wampanoag Confederation*. Consultation with *Mashpee Wampanoag* and *Massachusetts Indian Commission* Chair on repatriation from the lower Merrimack River watershed has been on-going.

11. (TO BE COMPLETED WHERE THE REQUEST CONCERNS AN AGREEMENT FOR THE DISPOSITION OF NATIVE AMERICAN HUMAN REMAINS TO NON-FEDERALLY RECOGNIZED INDIAN GROUPS)

Were the human remains in this request determined to be culturally connected with the non-federally recognized Indian groups who are parties to this agreement?

If the answer is yes, the human remains were determined to be culturally connected with the non-federally recognized Indian groups on the basis the following categories of information, and for each category, the key set of supporting documentation is attached (DO NOT include voluminous or extraneous documentation):

Yes. The principal categories of information were geographical, archaeological, anthropological, linguistic, oral traditional, and historical. Please see response to item #11.

Other relevant information or expert opinion (explain) n/a

12. Date of submission of this request:

September 21, 2012.

Review Committee notes:

AMENDED INVENTORY

of Native American Human Remains in the Possession or Control of University of New Hampshire, Archaeology Department Laboratory and Culturally Affiliated with the Abenaki Nation Coalition, a non-federally recognized Indian group

The purpose of this inventory is to facilitate implementation of section 5 of the Native American Graves Protection and Repatriation Act by providing clear descriptions of those human remains currently in the possession or control of the **University of New Hampshire, Department Archaeology Laboratory** that are reasonably believed to be culturally affiliated with **the Western Abenaki Nation Coalition (including the Abenaki Nation of New Hampshire and the Cowasuck Band of the Pennacook-Abenaki People)**, all non-federally recognized Indian groups.

The determination of the cultural affiliation of the human remains listed below has been based upon geographical, kinship, biological, archeological, linguistic, folklore, oral tradition, historic evidence, or other information or expert opinion. Primary information sources include a review of our accession and catalogue records conducted during 2006, and consultation with osteological experts, Indian group officials, and traditional religious leaders on the following dates:

2002: Preliminary meeting at **the University of New Hampshire** to discuss the nature of the University's collections and ways to facilitate the consultation process. Participants included University of New Hampshire Vice Provost Alan Ray and the following representatives of the Indian Group: John and Donna Moody (designated NAGPRA contact).

2008: Meeting at the University of New Hampshire's repository to review the collection. Osteologist Olivia Herschensohn from the Peabody Museum at Harvard and Professor Meghan Howey (archaeologist) along with Donna and John Moody assessed all bone in the UNH collections. At this time, it was determined there was a probable human remain from Stage Island Road, Plum Island.

2011: Meeting at The University of New Hampshire to finalize determinations of cultural affiliation. Participants included Senior Vice Provost Lisa MacFarlane, Professor Meghan Howey and designated NAGPRA contacts John and Donna Moody.

In addition, consultation was carried out via telephone and fax between Senior Vice Provost Lisa MacFarlane and designated NAGPRA contacts John and Donna Moody throughout the process.

The following documentation has been included for each set of remains in the inventory:

- (1) Accession and catalogue entries
- (2) A description of each set of human remains and the antiquity of such human remains or associated funerary objects, if known;

- (3) The geographical location from which each object was excavated, removed, or collected, i.e., name or number of site, county, State, and Federal agency administrative unit, if known (the most specific provenience information should be provided);
- (4) Information related to the acquisition of each set of remains including:
 - (i) the name of the person or organization from whom the object was obtained, if known;
 - (ii) the date of acquisition;
 - (iii) the means of acquisition, i.e., gift, purchase, excavation, etc.;
- (5) A summary of any results of consultation with representatives of the culturally affiliated Indian tribes, Alaska Native villages and corporations, and Native Hawaiian organizations, related specifically to the remains or object;
- (6) A summary of the evidence used to determine the cultural affiliation of the human remains or associated funerary object, including references to published material, if appropriate.
- (7) The name of the culturally affiliated Indian tribe (NOTE: Must be recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians).

This inventory includes all human remains and funerary objects that are currently identified as being culturally affiliated with this Indian group.

Item: a small amount of faunal and shell material that may contain human remains

Accession #: 134

Catalogue #: none

Description: A small amount of faunal and shell material that was determined to contain one bone that is a probable human remain (probable human rib fragment)

Geographical Location: Stage Island Road, Plum Island, Essex County, Newburyport, MA

Collection History: Very small amount of material from the Plum Island Project from two shell middens, one bag of faunal material from "Shell midden #1 Rice/Barlow 6/28/78" and one bag of shell from "Shell midden #2 Rice/Trombley 6-29-78."

Acquisition: Excavated 1978 by Stage Island Road, Plum Island Project. Acquired by UNH soon after through exchange the nature of which is today unknown.

Consultation: Materials were identified as potentially containing human remains in stabilization and inventory of UNH collections in 2005 by traditional consultants Donna and John Moody. Subsequently, Olivia Herschensohn a consulting osteologist, indicated that the material may contain human remains and recommended disposition of the material to the Indian group.

Basis of Determination: Osteological and archaeological evidence is consistent with identification of possible human remains. Geographical affiliation is consistent with the historically documented territory of the Indian Group. The Western Abenaki Coalition have requested the return of the object.

Cultural Affiliation: The Western Abenaki Indian Group, a non-federally recognized Indian Group.

DEPARTMENT OF THE INTERIOR**[2253-665]****National Park Service****Notice of Inventory Completion: University of New Hampshire Archaeology Laboratory,
Durham, New Hampshire****AGENCY:** National Park Service, Interior.**ACTION:** Notice.

SUMMARY: The University of New Hampshire (UNH) Archaeology Laboratory, Durham, New Hampshire has completed an inventory of human remains and associated funerary objects , in consultation with the appropriate Indian tribes, and has determined that there is no cultural affiliation between the remains and any present-day federally recognized Indian tribe.

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains may contact the **UNH Archaeology Laboratory**. Disposition of the human remains and associated funerary remains to the **non-federally recognized Indian group** stated below may occur if no additional requestors come forward.

DATES: Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains should contact the **UNH Archaeology Laboratory** at the address below by *[insert date 30 days after publication in the Federal Register]*.

ADDRESSES: UNH Archeology Laboratory, Attention: Lisa MacFarlane, Ph.D., Senior Vice Provost for Academic Affairs and Professor of English and American Studies, 207 Thompson Hall, University of New Hampshire, Durham, New Hampshire 03824-3547, (603-862-3290) or Lisa.MacFarlane@unh.edu .

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native

American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the UNH **Archaeology Laboratory, Durham, New Hampshire**. The human remains and associated funerary objects were removed from **Plum Island, in Newburyport, Essex County, Massachusetts**.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the UNH **Archaeology Laboratory** professional staff in consultation with representatives of Western Abenaki Nation Coalition (including the Abenaki Nation of New Hampshire and the Cowasuck Band of the Pennacook-Abenaki People) all non-federally recognized Indian groups.

History and description of the remains

In the last fifty years, human remains representing one individual were removed from **a shell midden on the Stage Island Road, Plum Island, Newburyport, Essex County, Massachusetts**. No known individuals were identified. Funerary objects including shell, bone, and fragmentary stone artifacts are present.

Determinations made by the UNH Archaeology Laboratory

Officials of the UNH **Archaeology Laboratory** have determined that:

- Based on available geographical, archaeological, anthropological and historical information, the human remains and associated funerary objects are Native American.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- Pursuant to 43 CFR 10.11(c)(2)(ii)(A), the disposition of the human remains is to the Western Abenaki Nation Coalition, a non-federally recognized Indian group (including the Abenaki Nation of New Hampshire, a non-federally recognized Indian group and the Cowasuck Band of the Pennacook–Abenaki People, a non-federally recognized Indian group).

Additional Requestors and Disposition

Representatives of any Indian tribe that believes itself to be culturally affiliated with the human remains or any other Indian tribe that believes it satisfies the criteria in 43 CFR 10.11(c)(1) should contact the UNH Archeology Laboratory, Attention: Lisa MacFarlane, Ph.D., Senior Vice Provost for Academic Affairs and Professor of English and American Studies, 207 Thompson Hall, University of New Hampshire, Durham, New Hampshire 03824-3547, telephone (603-862-3290) , , before [insert date 30 days following publication in the Federal Register]. Disposition of the human remains to the Western Abenaki Nation Coalition may proceed after that date if no additional requestors come forward.

Dated:

Sherry Hutt,

Manager, National NAGPRA Program.

Donna Moody
Repatriation Coordinator, Abenaki Nation Coalition
3089 Quechee-West Hartford Rd.
White River Junction, VT 05001
June 16, 2012

Lisa MacFarlane, PhD,
Senior Vice Provost for Academic Affairs
David Watters, PhD,
Repatriation Committee Chair
University of New Hampshire
207 Thompson Hall
Durham, NH 03824

Dear Dr. MacFarlane and Dr. Watters,

As Repatriation Coordinator for the Abenaki Nation Coalition I would like to formally request repatriation of ancestral remains, associated grave goods, and any items of cultural patrimony from the so-called Stage Island Rd., Plum Island site in Newburyport Massachusetts.

This site is located in the known traditional homelands of the Abenaki Nation. Consultation with Ramona Peters, Repatriation officer of the Wampanoag Tribe, has produced corroboration of Abenaki tribal affiliation with this site. We will expect to present this repatriation claim in conjunction with UNH to the national NAGPRA Review Committee for approval.

Respectfully,



Donna Moody
Repatriation Coordinator,
Abenaki Nation Coalition

RECEIVED

JUN 20 2012

**Office of the Provost and
Vice President for Academic Affairs**